

104TH CONGRESS
2D SESSION

H. R. 3308

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 6, 1996

Received; read twice and referred to the Committee on Armed Services

AN ACT

To amend title 10, United States Code, to limit the placement of United States forces under United Nations operational or tactical control, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “United States Armed
3 Forces Protection Act of 1996”.

4 **SEC. 2. FINDINGS AND CONGRESSIONAL POLICY.**

5 (a) FINDINGS.—Congress finds as follows:

6 (1) The President has made United Nations
7 peace operations a major component of the foreign
8 and security policies of the United States.

9 (2) The President has committed United States
10 military personnel under United Nations operational
11 control to missions in Haiti, Croatia, and Macedonia
12 that could endanger those personnel.

13 (3) The President has deployed over 22,000
14 United States military personnel to the former
15 Yugoslavia as peacekeepers under NATO operational
16 control to implement the Dayton Peace Accord of
17 December 1995.

18 (4) Although the President has insisted that he
19 will retain command of United States forces at all
20 times, in the past this has meant administrative con-
21 trol of United States forces only, while operational
22 control has been ceded to United Nations command-
23 ers, some of whom were foreign nationals.

24 (5) The experience of United States forces par-
25 ticipating in combined United States-United Nations
26 operations in Somalia, and in combined United Na-

1 tions-NATO operations in the former Yugoslavia,
2 demonstrate that prerequisites for effective military
3 operations such as unity of command and clarity of
4 mission have not been met by United Nations com-
5 mand and control arrangements.

6 (6) Despite the many deficiencies in the con-
7 duct of United Nations peace operations, there may
8 be unique occasions when it is in the national secu-
9 rity interests of the United States to participate in
10 such operations.

11 (b) POLICY.—It is the sense of Congress that—

12 (1) the President should fully comply with all
13 applicable provisions of law governing the deploy-
14 ment of the Armed Forces of the United States to
15 United Nations peacekeeping operations;

16 (2) the President should consult closely with
17 Congress regarding any United Nations peace oper-
18 ation that could involve United States combat forces
19 and that such consultations should continue
20 throughout the duration of such activities;

21 (3) the President should consult with Congress
22 before a vote within the United Nations Security
23 Council on any resolution which would authorize, ex-
24 tend, or revise the mandate for any such activity;

1 (4) in view of the complexity of United Nations
2 peace operations and the difficulty of achieving unity
3 of command and expeditious decisionmaking, the
4 United States should participate in such operations
5 only when it is clearly in the national security inter-
6 est to do so;

7 (5) United States combat forces should be
8 under the operational control of qualified command-
9 ers and should have clear and effective command
10 and control arrangements and rules of engagement
11 (which do not restrict their self-defense in any way)
12 and clear and unambiguous mission statements; and

13 (6) none of the Armed Forces of the United
14 States should be under the operational control of
15 foreign nationals in United Nations peace enforce-
16 ment operations except in the most extraordinary
17 circumstances.

18 (c) DEFINITIONS.—For purposes of subsections (a)
19 and (b):

20 (1) The term “United Nations peace enforce-
21 ment operations” means any international peace en-
22 forcement or similar activity that is authorized by
23 the United Nations Security Council under chapter
24 VII of the Charter of the United Nations.

1 (2) The term “United Nations peace oper-
2 ations” means any international peacekeeping,
3 peacemaking, peace enforcement, or similar activity
4 that is authorized by the United Nations Security
5 Council under chapter VI or VII of the Charter of
6 the United Nations.

7 **SEC. 3. PLACEMENT OF UNITED STATES FORCES UNDER**
8 **UNITED NATIONS OPERATIONAL OR TAC-**
9 **TICAL CONTROL.**

10 (a) IN GENERAL.—(1) Chapter 20 of title 10, United
11 States Code, is amended by inserting after section 404 the
12 following new section:

13 **“§ 405. Placement of United States forces under Unit-**
14 **ed Nations operational or tactical con-**
15 **trol: limitation**

16 “(a) LIMITATION.—Except as provided in subsections
17 (b) and (c), funds appropriated or otherwise made avail-
18 able for the Department of Defense may not be obligated
19 or expended for activities of any element of the armed
20 forces that after the date of the enactment of this section
21 is placed under United Nations operational or tactical con-
22 trol, as defined in subsection (f).

23 “(b) EXCEPTION FOR PRESIDENTIAL CERTIFI-
24 CATION.—(1) Subsection (a) shall not apply in the case
25 of a proposed placement of an element of the armed forces

1 under United Nations operational or tactical control if the
2 President, not less than 15 days before the date on which
3 such United Nations operational or tactical control is to
4 become effective (or as provided in paragraph (2)), meets
5 the requirements of subsection (d).

6 “(2) If the President certifies to Congress that an
7 emergency exists that precludes the President from meet-
8 ing the requirements of subsection (d) 15 days before plac-
9 ing an element of the armed forces under United Nations
10 operational or tactical control, the President may place
11 such forces under such operational or tactical control and
12 meet the requirements of subsection (d) in a timely man-
13 ner, but in no event later than 48 hours after such oper-
14 ational or tactical control becomes effective.

15 “(c) ADDITIONAL EXCEPTIONS.—(1) Subsection (a)
16 shall not apply in the case of a proposed placement of any
17 element of the armed forces under United Nations oper-
18 ational or tactical control if Congress specifically author-
19 izes by law that particular placement of United States
20 forces under United Nations operational or tactical con-
21 trol.

22 “(2) Subsection (a) shall not apply in the case of a
23 proposed placement of any element of the armed forces
24 in an operation conducted by the North Atlantic Treaty
25 Organization.

1 “(d) PRESIDENTIAL CERTIFICATIONS.—The require-
2 ments referred to in subsection (b)(1) are that the Presi-
3 dent submit to Congress the following:

4 “(1) Certification by the President that it is in
5 the national security interests of the United States
6 to place any element of the armed forces under
7 United Nations operational or tactical control.

8 “(2) A report setting forth the following:

9 “(A) A description of the national security
10 interests that would be advanced by the place-
11 ment of United States forces under United Na-
12 tions operation or tactical control.

13 “(B) The mission of the United States
14 forces involved.

15 “(C) The expected size and composition of
16 the United States forces involved.

17 “(D) The precise command and control re-
18 lationship between the United States forces in-
19 volved and the United Nations command struc-
20 ture.

21 “(E) The precise command and control re-
22 lationship between the United States forces in-
23 volved and the commander of the United States
24 unified command for the region in which those
25 United States forces are to operate.

1 “(F) The extent to which the United
2 States forces involved will rely on forces of
3 other countries for security and defense and an
4 assessment of the capability of those other
5 forces to provide adequate security to the Unit-
6 ed States forces involved.

7 “(G) The exit strategy for complete with-
8 drawal of the United States forces involved.

9 “(H) The extent to which the commander
10 of any unit of the armed forces proposed for
11 placement under United Nations operational or
12 tactical control will at all times retain the
13 right—

14 “(i) to report independently to supe-
15 rior United States military authorities; and

16 “(ii) to decline to comply with orders
17 judged by the commander to be illegal or
18 beyond the mandate of the mission to
19 which the United States agreed with the
20 United Nations, until such time as that
21 commander receives direction from supe-
22 rior United States military authorities with
23 respect to the orders that the commander
24 has declined to comply with.

1 “(I) The extent to which the United States
2 will retain the authority to withdraw any ele-
3 ment of the armed forces from the proposed op-
4 eration at any time and to take any action it
5 considers necessary to protect those forces if
6 they are engaged.

7 “(J) The anticipated monthly incremental
8 cost to the United States of participation in the
9 United Nations operation by the United States
10 forces which are proposed to be placed under
11 United Nations operational or tactical control
12 and the percentage that such cost represents of
13 the total anticipated monthly incremental costs
14 of all nations expected to participate in such op-
15 eration.

16 “(e) CLASSIFICATION OF REPORT.—A report under
17 subsection (d) shall be submitted in unclassified form and,
18 if necessary, in classified form.

19 “(f) UNITED NATIONS OPERATIONAL OR TACTICAL
20 CONTROL.—For purposes of this section, an element of
21 the Armed Forces shall be considered to be placed under
22 United Nations operational or tactical control if—

23 “(1) that element is under the operational or
24 tactical control of an individual acting on behalf of
25 the United Nations for the purpose of international

1 peacekeeping, peacemaking, peace-enforcing, or simi-
2 lar activity that is authorized by the Security Coun-
3 cil under chapter VI or VII of the Charter of the
4 United Nations; and

5 “(2) the senior military commander of the Unit-
6 ed Nations force or operation is a foreign national
7 or is a citizen of the United States who is not a
8 United States military officer serving on active duty.

9 “(g) INTERPRETATION.—Nothing in this section may
10 be construed—

11 “(1) as authority for the President to use any
12 element of the Armed Forces in any operation;

13 “(2) as authority for the President to place any
14 element of the Armed Forces under the command or
15 operational control of a foreign national; or

16 “(3) as superseding, negating, or otherwise af-
17 fecting the requirements of section 6 of the United
18 Nations Participation Act of 1945 (22 U.S.C.
19 287d).”.

20 (2) The table of sections at the beginning of sub-
21 chapter I of such chapter is amended by adding at the
22 end the following new item:

“405. Placement of United States forces under United Nations operational or
tactical control: limitation.”.

23 (b) EXCEPTION FOR ONGOING OPERATIONS IN MAC-
24 EDONIA AND CROATIA.—Section 405 of title 10, United

1 States Code, as added by subsection (a), does not apply
2 in the case of activities of the Armed Forces that are car-
3 ried out—

4 (1) in Macedonia as part of the United Nations
5 force designated as the United Nations Preventive
6 Deployment Force (UNPREDEP) pursuant to Unit-
7 ed Nations Security Council Resolution 795, adopted
8 December 11, 1992, and Resolution 983, adopted
9 March 31, 1995, and subsequent reauthorization
10 Resolutions; or

11 (2) in Croatia as part of the United Nations
12 force designated as the United Nations Transitional
13 Administration for Eastern Slavonia, Baranja, and
14 Western Sirmium (UNTAES) pursuant to United
15 Nations Security Council Resolution 1037, adopted
16 January 15, 1996, and subsequent reauthorization
17 Resolutions.

18 **SEC. 4. REQUIREMENT TO ENSURE THAT ALL MEMBERS**

19 **KNOW MISSION AND CHAIN OF COMMAND.**

20 (a) IN GENERAL.—Chapter 37 of title 10, United
21 States Code, is amended by adding at the end the follow-
22 ing new section:

1 **“§656. Members required to be informed of mission**
 2 **and chain of command**

3 “The commander of any unit of the armed forces as-
 4 signed to an operation shall ensure that each member of
 5 such unit is fully informed of that unit’s mission as part
 6 of such operation and of that member’s chain of com-
 7 mand.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
 9 at the beginning of such chapter is amended by adding
 10 at the end the following new item:

“656. Members required to be informed of mission and chain of command.”.

11 **SEC. 5. PROHIBITION ON REQUIREMENT FOR MEMBERS OF**
 12 **THE ARMED FORCES TO WEAR UNIFORM**
 13 **ITEMS OF THE UNITED NATIONS.**

14 (a) IN GENERAL.—Chapter 45 of title 10, United
 15 States Code, is amended by adding at the end the follow-
 16 ing new section:

17 **“§ 777. Insignia of United Nations: prohibition on re-**
 18 **quirement for wearing**

19 “No member of the armed forces may be required to
 20 wear as part of the uniform any badge, symbol, helmet,
 21 headgear, or other visible indicia or insignia which indi-
 22 cates (or tends to indicate) any allegiance or affiliation
 23 to or with the United Nations except in a case in which
 24 the wearing of such badge, symbol, helmet, headgear, indi-

1 cia, or insignia is specifically authorized by law with re-
2 spect to a particular United Nations operation.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of such chapter is amended by adding
5 at the end the following new item:

“777. Insignia of United Nations: prohibition on requirement for wearing.”.

Passed the House of Representatives September 5,
1996.

Attest:

ROBIN H. CARLE,
Clerk.